

FUNDAMENTALS OF TRIAL ADVOCACY COURSE

October 5 – 8, 2020
Phoenix, Arizona



JURY SELECTION

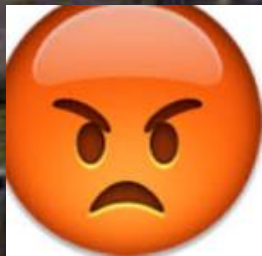
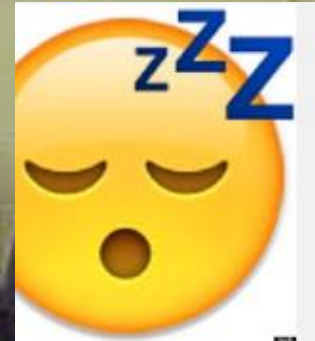
Presented by:

Jay Chapman
Assistant Phoenix City Prosecutor

Distributed by:

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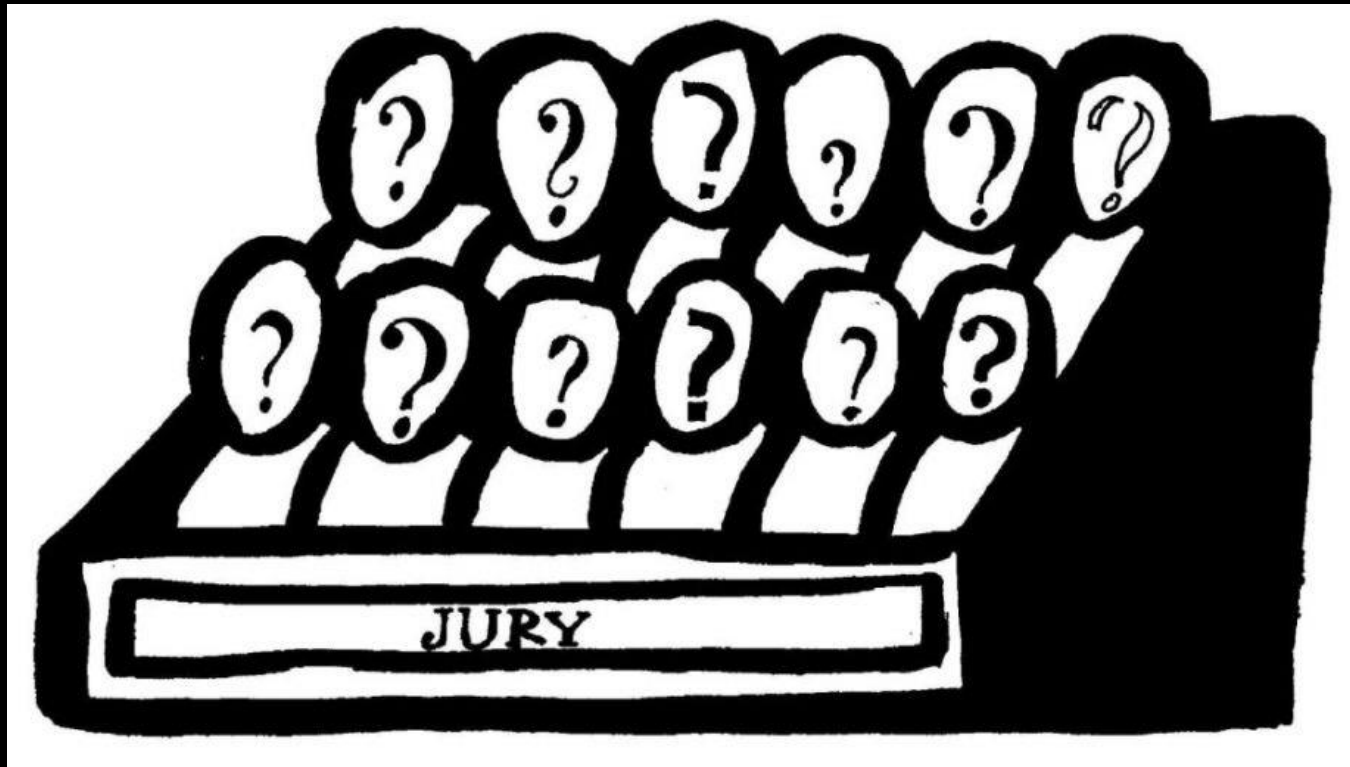




JURY SELECTION

Jay Chapman
City of Phoenix
Assistant City Prosecutor

Fair & Impartial Jury



How Many Jurors are Selected?



30 years of
imprisonment
or more:

• 12 jurors

Less than 30
years of
imprisonment:

• 8 jurors

Misdemeanor:

• 6 jurors



PROSECUTOR EDITION



**100 prosecutors were surveyed
(not really)**

The top 10 answers are on the board.

**What should a prosecutor do
during jury selection to
select a fair jury?**



#1 APPRECIATE ITS IMPORTANCE 25

“Just give me the
first 7” may cost
you the case.



13 14  16 17 18

7 8 9 10  12

1  3 4 5 

READ JURORS 18

Really listen,
notice body language,
tone, pauses,
clothes, & books.
What does your gut tell
you?



WILL EMOTION SWAY THE JUROR?

Occupation

Prior jury service

Experience with police

Facial expressions & Body languages

Pauses

Tone

How are they dressed

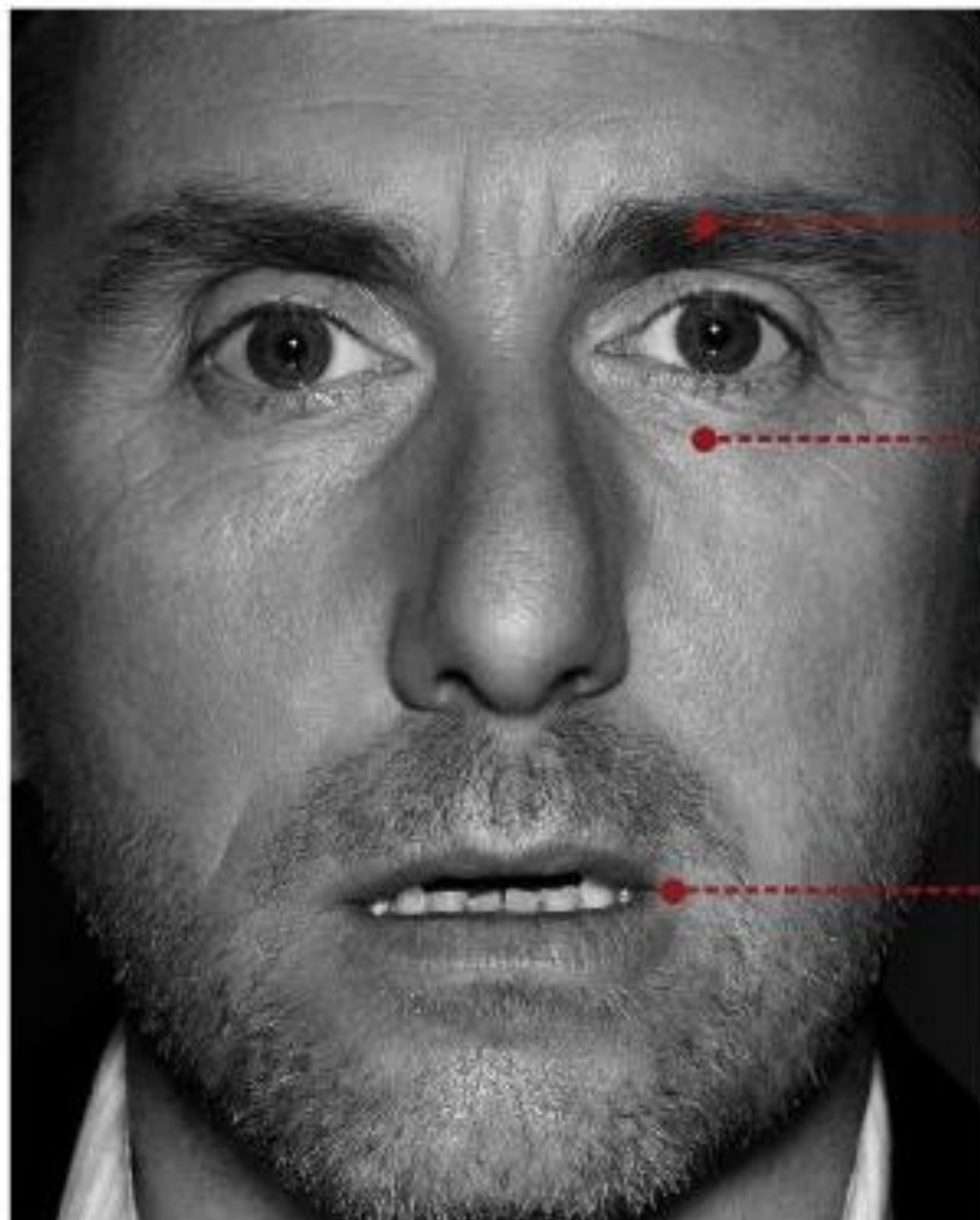
What book are they reading

Rule follower (“Yes sir or madam”)

What does your “gut” tell you

THE FACE MIRRORS EMOTIONS

- Macro expressions: $\frac{1}{2}$ second to 4 seconds,
Often consistent with what is said
- Micro expressions: $\frac{1}{15}$ to $\frac{1}{25}$ of a second
Display a concealed emotion
- Dr. Paul Ekman's research has shown 7 primary expressions



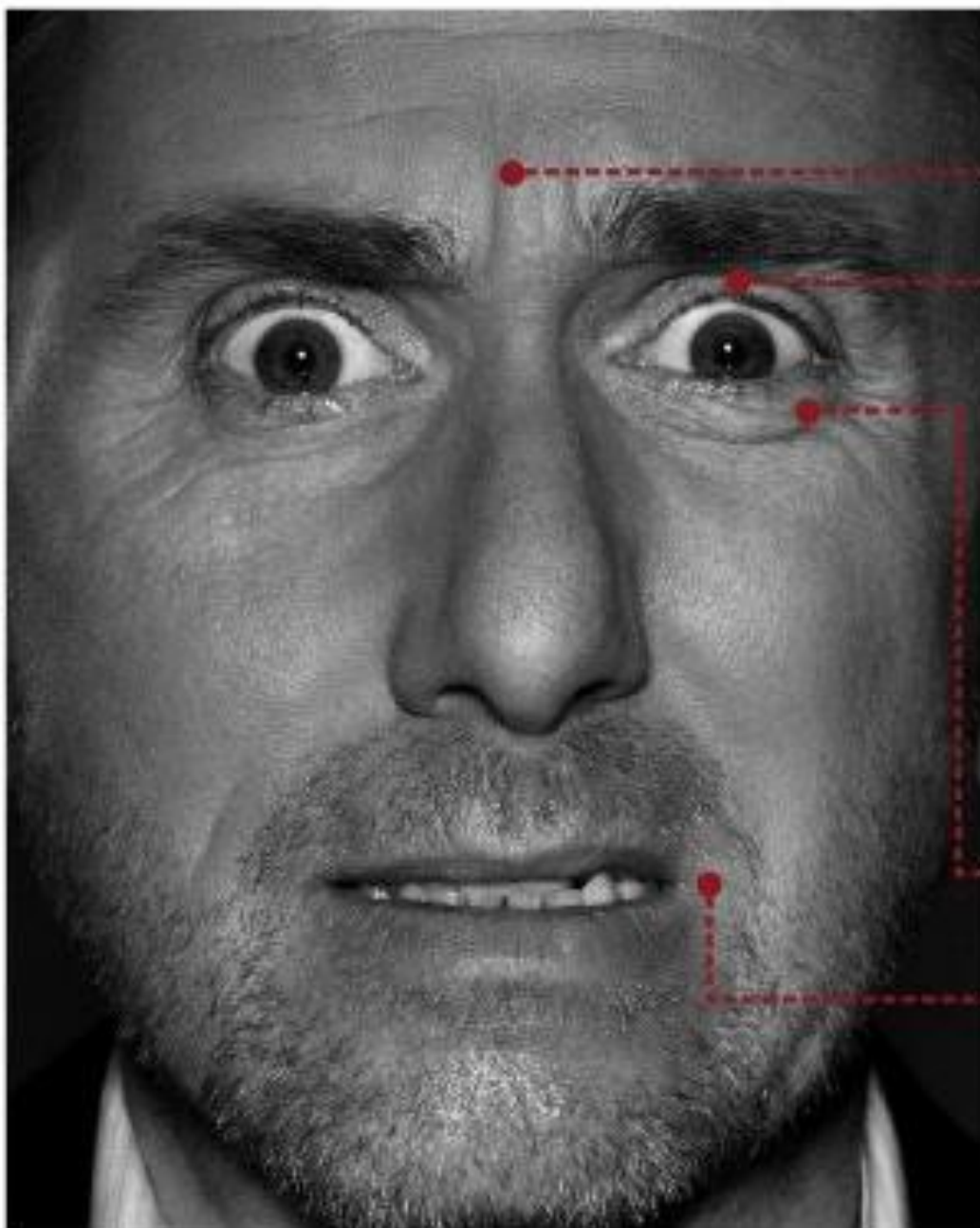
surprise

Lasts for only one second:

① eyebrows raised

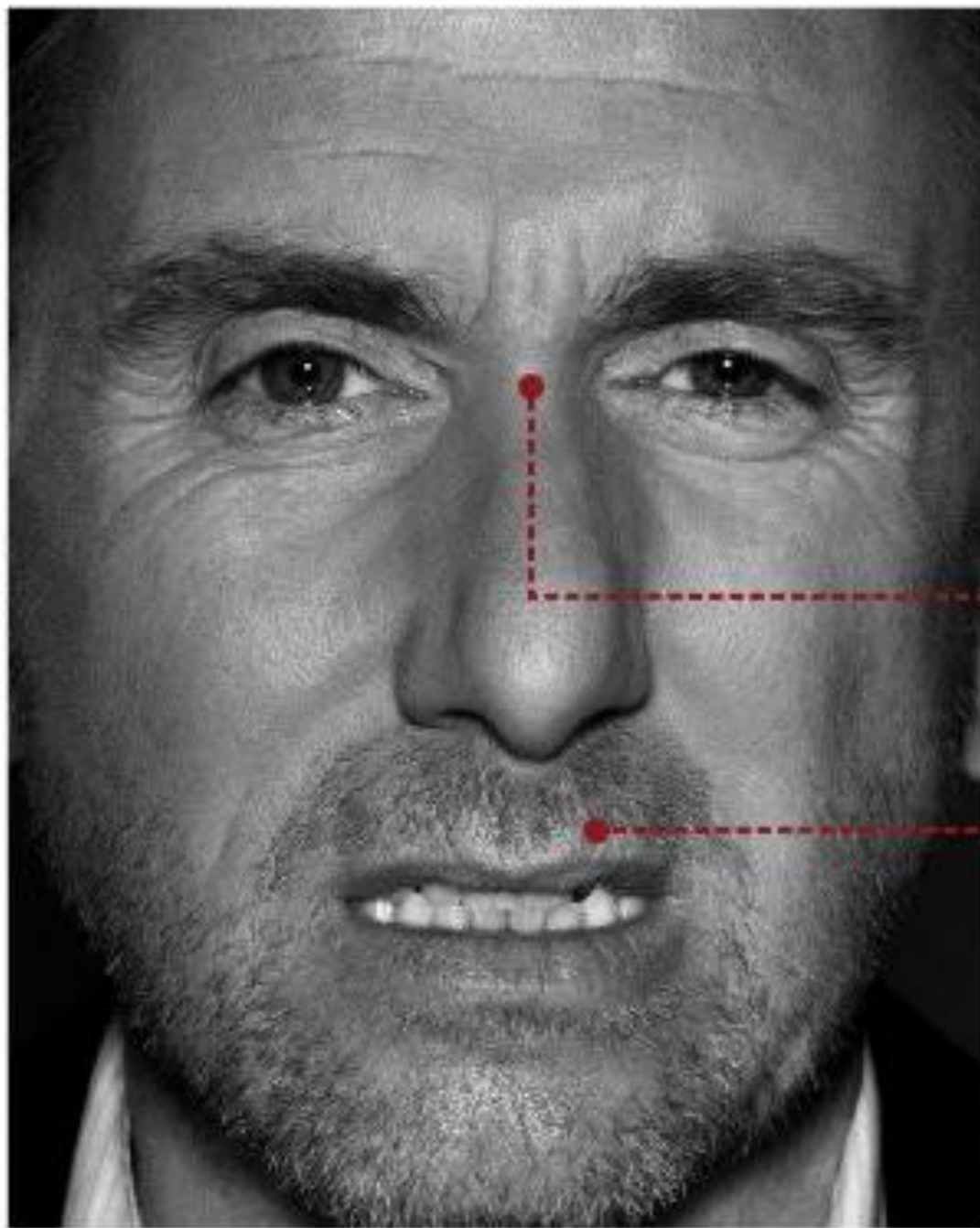
② eyes widened

③ mouth open



fear

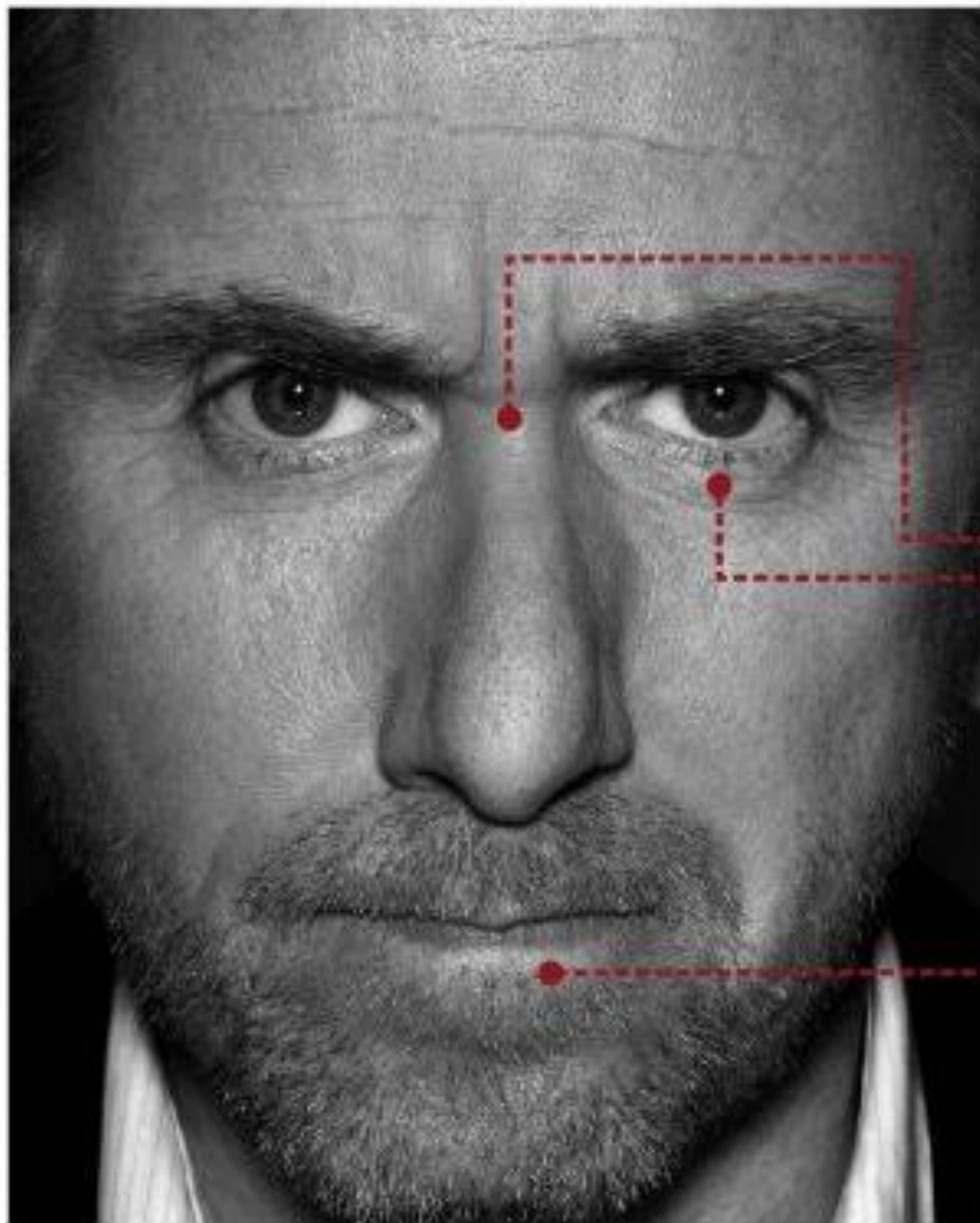
- ① eyebrows raised and pulled together
- ② raised upper eyelids
- ③ tensed lower eyelids
- ④ lips slightly stretched horizontally back to ears



disgust

① nose wrinkling

② upper lip raised

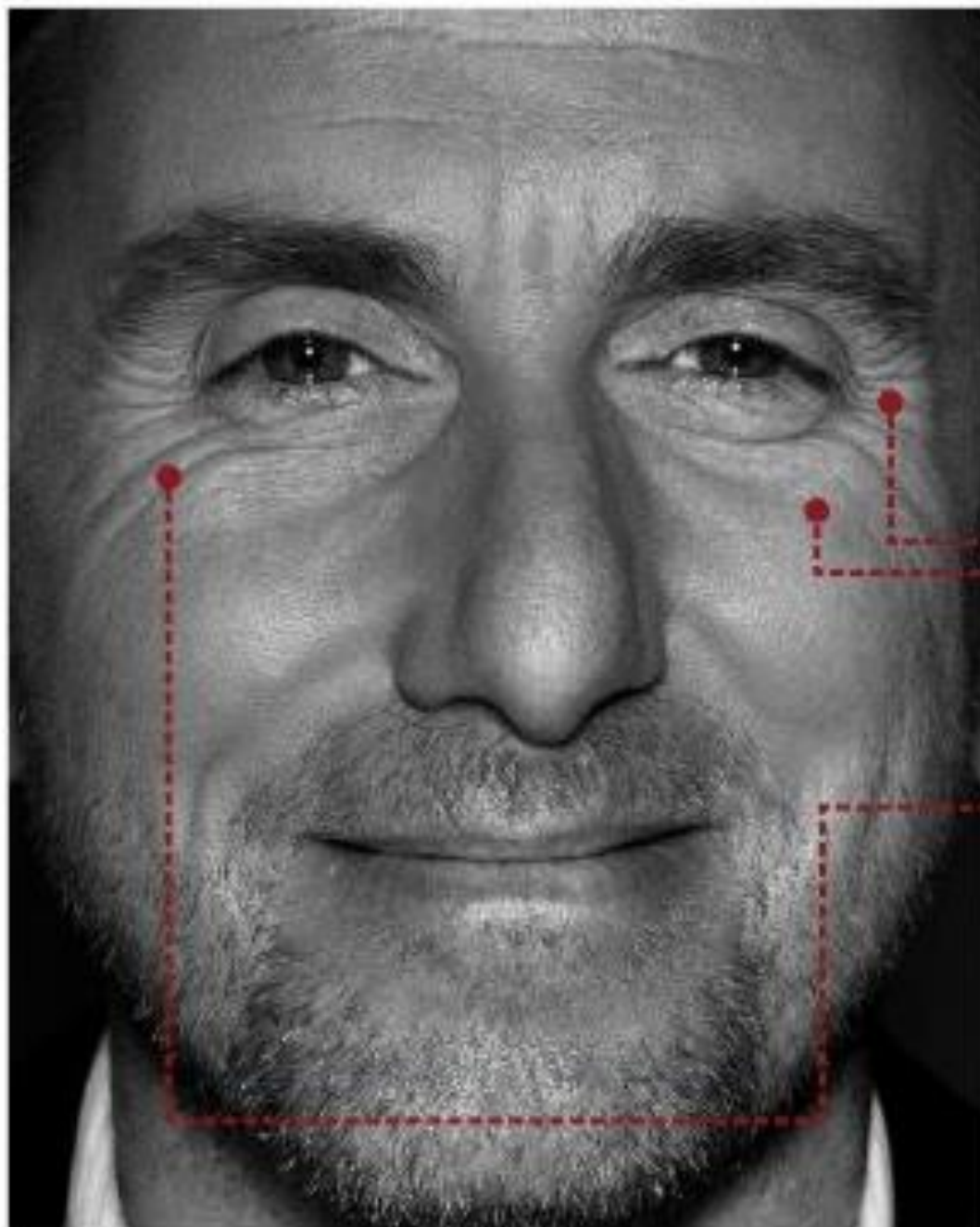


anger

① eyebrows down and together

② eyes glare

③ narrowing of the lips



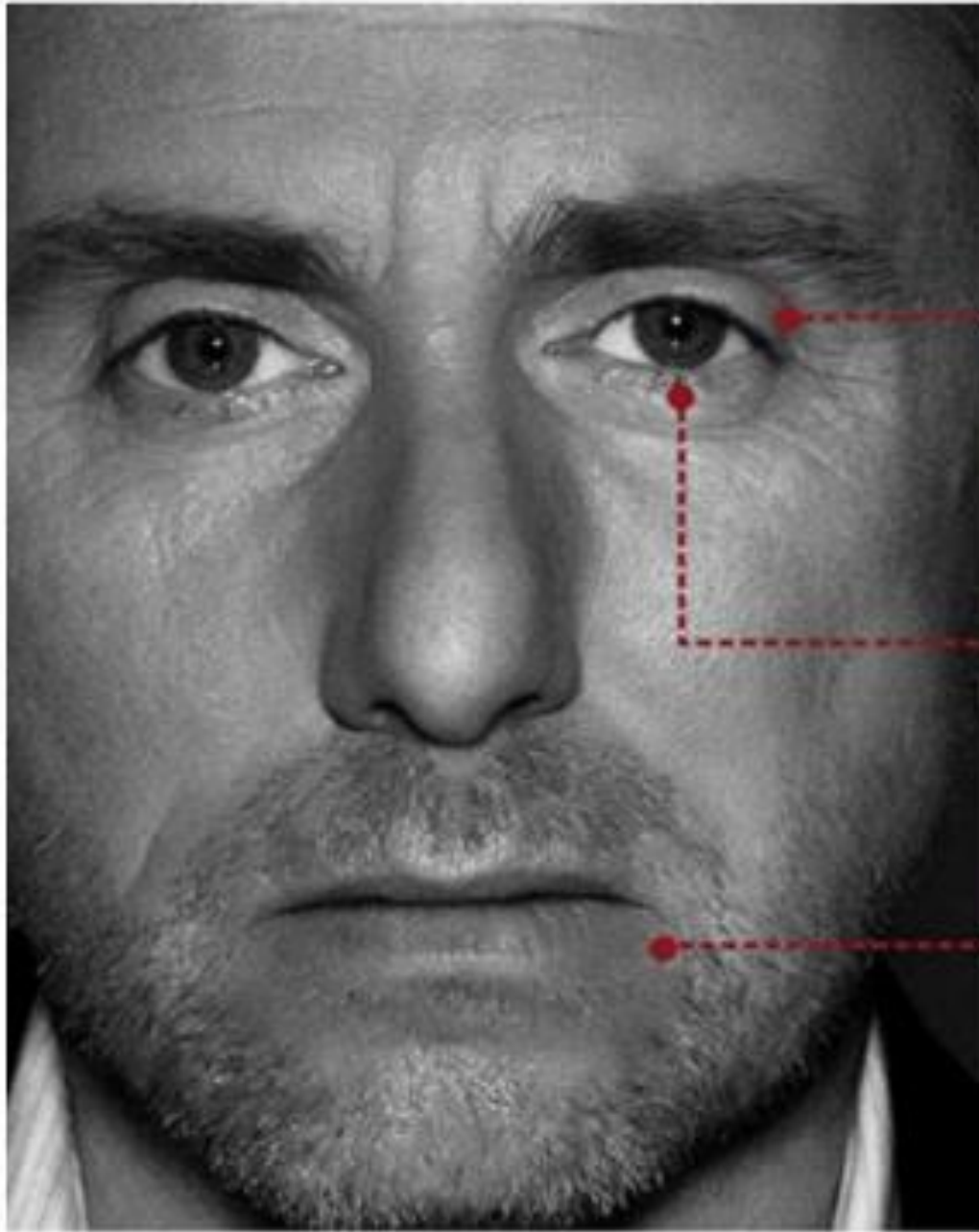
happiness

A real smile always includes:

① crow's feet wrinkles

② pushed up cheeks

③ movement from
muscle that
orbits the eye



sadness

- ① drooping upper eyelids
- ② losing focus in eyes
- ③ slight pulling down of lip corners



contempt

① lip corner tightened and raised on only one side of face

BE COP CONSCIOUS

15

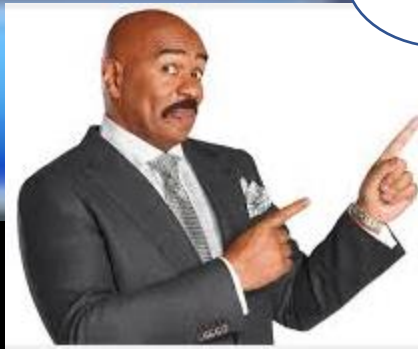
Have you, a family member or close friend had an especially positive or negative experience with police?



ESTABLISH
RAPPORT

12

Do not
cross-examine
the juror



EAR Method

Experience: Please tell me about your experience

Attitude: How did you feel about that?

Rule: What are your views? What did you learn?

Listen & ask follow up questions

Can you tell me more about that? Why is that?



When jurors are
brought back
individually ask open
ended questions.

GET THEM TALKING

10



#6 SET UP STRIKES FOR CAUSE 6

Given your personal
experiences with DUI
wouldn't it be easier to
serve on a shoplift
case?



Batson Challenge

A peremptory strike based on race violates the Constitution

1. Defendant must make a **prima facie** showing of discrimination
 2. Burden shifts to State to give a **neutral reason**
 3. Court determines whether there was **purposeful discrimination**
- Take a deep breath
 - Don't take it personal
 - Make a record

Peremptory Challenges

- Death Penalty Cases: 10
- Superior Court Cases: 6
- Limited Jurisdiction courts: 2
- Joint Trials: each defendant gets half
- May agree to fewer

#7 USE PLAIN ENGLISH

5

Don't talk down to
jurors. Don't use
legalize.
Be conversational.



Confident = Credibility

#8 ACT CONFIDENT

4



Take good notes,
use question marks or
stars

#9 USE SHORT
HAND

3



Be ready to introduce
yourself & your
witnesses. Have your
table organized.



#10 MAKE A GOOD
1ST IMPRESSION 2



#1 APPRECIATE ITS
IMPORTANCE

#2 READ JURORS

#3 BE COP
CONSCIOUS

#4 ESTABLISH
RAPPORT

#5 GET THEM
TALKING

#6 SET UP STRIKES
FOR CAUSE

#7 USE PLAIN
ENGLISH

#8 ACT CONFIDENT

#9 USE SHORT
HAND

#10 MAKE A GOOD
1ST IMPRESSION





**You don't win a case during jury selection
but you can lose it**

**JURY
QUESTIONS**

**PRESCRIPTION
DRUG DUI CASE**



JURY QUESTIONS

It is a violation of A.R.S. § 28-1381(A)(1)
to drive after taking Xanax and to be impaired by Xanax
to the slightest degree.

A prescription is not a defense to the (A)(1) charge.

Would you have difficulty following the law?

JURY QUESTIONS

It is a violation of A.R.S. § 28-1381(A)(3)
to drive after taking Xanax without a valid prescription.
The (A)(3) charge does not require impairment.

Would you have difficulty following the law?

JURY QUESTIONS

Have you, a family member or close friend ever taken Xanax or an anti-depressant drug?

When did the person start taking Xanax?

How recently did the person take Xanax?

Does the person drive after taking Xanax?

Have you, a family member or close friend ever regularly used a prescription drug?

JURY QUESTIONS

- Has anyone taken a course in, or do you consider yourself knowledgeable in the field of medicine, chemistry, pharmacology or the effects of drugs on the body?
- Have you or anyone close to you ever worked where prescription drugs are sold?
- Have you or anyone close to you ever worked in a lab or any medical testing facility?
- Have you had training or work experience in any drug treatment programs?

JURY QUESTIONS

- Has anyone ever challenged a traffic ticket, for a example a speeding ticket?
- Have you, a family member or close friend had an especially positive or negative experience with police?

SYMPATHY

SAFETY

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